

PROPOSED RESOLUTION

Res. W-5021
DWA

AGENDA ID #13633

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIVISION OF WATER AND AUDITS
Water and Sewer Advisory Branch

RESOLUTION W-5021
January 29, 2015

RESOLUTION

(RES. W-5021) RESOLUTION GRANTING CALIFORNIA WATER SERVICE COMPANY AUTHORITY TO REFUND CUSTOMERS OF ITS KERN RIVER VALLEY LAKELAND DISTRICT \$21,000 OF EXCESS FUNDS FROM ITS SAFE DRINKING WATER BOND ACT TRUST ACCOUNT AND TO INCREASE SURCHARGE RATES TO PROVIDE ADEQUATE COLLECTION FOR FUTURE LOAN PAYMENTS.

SUMMARY

This Resolution grants California Water Service Company (CWS) the authority requested in its Advice Letter (AL) No. 2143, as supplemented by AL No. 2143-A and AL No. 2143-B, with conditions.

CWS requests authority pursuant to the Water Industry Rules 7.3.3 and 8.5 of General Order 96-B (GO 96-B) to:

1. Refund through surcredit or check to customers of its Lakeland District (LD) \$21,000 of excess funds deposited in its Safe Drinking Water Bond Act (SDWBA) trust account.
2. Increase the LD SDWBA surcharge rates in order to provide adequate collection for future semiannual SDWBA loan payments of \$13,766.19.

A notice of the proposed surcharge increase was mailed to each customer on December 12, 2014, and published in the Kern Valley Sun on December 24, 2014. No protests were received.

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This Resolution requires certain conditions to ensure proper treatment of the refund, including but not limited to, specific document retention, and recording and reporting requirements. In addition, the Resolution notes that this refunding is subject to audit.

BACKGROUND

CWS, a California corporation, is a Class A water company with service areas throughout the state. LD provides water service to approximately 207 customers in the area known as Lakeland, Tracts No. 2412, 3035, 3036, 3108 and vicinity, located northeast of the community of Lake Isabella, in Kern County.

In D.94-09-024, the Commission authorized the Lakeland Water Company (Lakeland) to borrow \$453,440 under the SDWBA administered by the California Department of Water Resources (DWR) for the construction of new water supply wells, along with the transmission, distribution and storage facilities to transfer water from the new wells to Lakeland's customers, and to add a surcharge to water rates to repay the principal and interest on the loan. Lakeland was also authorized to establish a maximum lump sum service fee of \$1,000 for new connections pertaining to vacant or undeveloped lots since they will benefit from the improvements. The loan was for \$453,440 with a term of 30 years and a 10% reserve requirement. The annual requirement for the debt service was estimated at \$25,300. At that time, Lakeland had 214 flat-rate customers and no metered customers.

In D.69516, dated August 10, 1965, the Commission authorized Dominguez Water Corporation (Dominguez) to acquire all of the outstanding capital stock of Antelope Valley Water Co. (Antelope) and North Edwards Water Co. (North Edwards). Antelope and North Edwards are California corporations operating public utility water systems in Los Angeles and Kern Counties under common management which owns all of the outstanding capital stock of each company.

In D.71954, dated January 31, 1967, the Commission authorized Antelope to acquire all of the outstanding capital stock of Kernville Domestic Water Company (Kernville Domestic). Kernville Domestic is a California corporation engaged in the public utility water business in the community within Kern County, known as Kernville. Consequently, at this time, Kernville Domestic became a second-tier subsidiary of Dominguez.

In D.94-12-039, dated December 21, 1994, the Commission authorized the sale and transfer of 1,914 shares of Lakeland common stock outstanding to Kernville Domestic

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that did business under the Kern River Valley Water Company (Kern River Valley). Kern River Valley is a wholly owned subsidiary of Dominguez..

In D.96-12-038, dated December 20, 1996, the Commission granted Kernville Domestic, as the successor in interest to Lakeland, a modification of D.94-09-024, to increase the loan authorization limit that had been granted to Lakeland from \$453,440 to \$531,440. The semiannual principal and interest payments increased to \$14,147 or \$28,294 annually, with a reserve fund requirement of \$28,294. At that time, Kernville claimed that an increase in any rate or charge to the customers was not needed because the reserve funds were sufficient to amortize the loan amount increase.

CWS acquired the LD system in the year 2000 as part of its merger with Dominguez, as authorized in D.00-05-047.

According to CWS, the LD SDWBA Loan Contract #E51066, dated October 4, 1995, and amended January 27, 1999, indicated a principal amount of \$506,869.45, for a term of 29 years, with a semiannual principal and interest payments of \$13,766.19 or \$27,532.38. The loan contract required the accumulation of a 10% reserve during the first 10 years of the loan. The loan contract also required the execution of a fiscal services agreement with a fiscal agent who acts as trustee for loan repayment funds deposited and performs services pertaining to receiving deposits, remitting payments and accumulating the reserve.

When CWS acquired LD in the year 2000, the trust account balance was \$70,718.92. By AL No. 1494, effective October 30, 2001, CWS implemented the surcharge rates shown in the following table and these are the rates currently in effect.

Table 1
Current Surcharge Rates

Size of Meter	Monthly Surcharge
5/8" x 3/4"	\$ 9.85
3/4"	\$ 14.75
1"	\$ 24.75
1-1/2"	\$ 49.25
2"	\$ 79.00
3"	\$148.00
4"	\$246.00

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In the year 2000, there were 230 metered customers and no flat-rate customers in the LD service area.

The Division of Water and Audits' (DWA) Utility Audit, Finance and Compliance Branch (UAFCB) conducted a review of CWS' LD SDWBA trust account and determined that after considering the accumulated 10% reserve requirement of \$27,532, LD should have approximately \$28,000 of excess funds in the trust account. UAFCB also determined that LD is not collecting sufficient revenues to provide for the loan payments. For lack of information between 1994 and 2000, it appears that when CWS implemented the surcharge rates in 2001, it intended to use part of the excess funds in the trust account to cover any undercollections.

In July 2014, UAFCB instructed CWS to determine a) the amount of excess funds in its LD trust account, net of the accumulated reserve requirement and b) to propose how the surcharge rates should be adjusted to have sufficient funds for the semi-annual payments on the loan.

A. CWS Advice Letter Requests

On October 22, 2014, CWS filed AL No. 2143, to request authority to refund to LD customers \$28,000 of excess funds accumulated in the SDWBA trust account administered by WestAmerica Bank. CWS also requests authority to increase the LD SDWBA surcharge rates in order to provide adequate collection for future semiannual SDWBA loan payments of \$13,764.16. CWS proposed a one-time refund via surcredit to current customers and by check to previous customers.

On November 4, 2014, CWS filed AL No. 2143-A requesting an option to refund existing customers by check, asserting that refunding current customers by check might be more efficient and timely than surcredit due to the programming effort involved. CWS is negotiating with a bank to undertake the refunding and to issue the checks to current and previous customers.

On November 17, 2014, CWS filed AL No. 2143-B to adjust the amount of excess funds to be refunded from \$28,000 to \$21,000. CWS explains that when it submitted AL No. 2143, as supplemented by AL No. 2143-A, it did not estimate the amount of funds needed for the upcoming January 2015 loan payment. The loan payment is \$7,670.49; with rounding, the reduction to \$21,000 is the proper amount, as shown in the table below.

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B. Proposed Refund

CWS calculated the amount of the refund to current and previous customers based on the prorated time they paid the surcharge.¹ CWS' calculation of the amount to be refunded, included in the work papers to AL No. 2143, as supplemented, is shown in the following table.

Table 2
Calculation of Refund
As of August 31, 2014

Trust account balance (beginning of 2014)	\$53,561.63
Add: Surcharges collected (January 2013 to June 2014)	8,112.01
Add: Net interest earned up to June 30, 2014	24.10
Less: July 2014 loan payment	<u>(13,766.19)</u>
Trust account balance June 30, 2014	\$47,931.55
Add: Surcharges collected in transit & collected up to August 31, 2014	8,270.94
Less: 10% reserve requirement (2 x loan payment)	<u>(27,532.00)</u>
Trust account balance as of August 31, 2014, net of reserve	\$28,670.49
Less: Amount of funds needed for next payment	<u>7,670.49</u>
Requested amount to be refunded	<u>\$21,000.00</u>

Based on current surcharge rates, LD's surcharge revenue is approximately \$2,053.85 per month. The difference between the trust account balance as of August 31, 2014 of \$28,670.49 and the requested amount to be refunded of \$21,000 is \$7,670.49.

According to CWS, this amount, together with the September to December 2014 surcharge collection of approximately \$8,215 ($\$2,053.85 \times 4$ months) will provide funds for the January 2015 semi-annual loan payment of \$13,766.19.² The \$27,532 accumulated reserve requirement will remain deposited in the trust account.

¹ According to CWS, the billing system used by Dominguez prior to the merger is no longer available. CWS established that the timeline for the refund begins at year 2002 and continues until July 31, 2014.

² CWS stated that part of the December 2014 projected surcharge collection may be in-transit as of January 1, 2015.

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CWS' proposed refund per customer address is shown in the following table.

Table 3
CWS' Refund Design

Metered Service Size of Service or Meter	Number of Connections in 2014	Meter Ratio	Total Refund Per Address³	Total Refund
5/8 x 3/4-inch	242	1.0	\$ 85.89	\$20,785.28
3/4-inch	0	1.5	\$ 128.83	0.00
1-inch	1	2.5	\$ 214.72	214.72
1-1/2-inch	0	5.0	\$ 429.45	0.00
2-inch	0	8.0	\$ 687.12	0.00
3-inch	0	15.0	\$1,288.34	0.00
4-inch	0	25.0	\$2,147.24	0.00
Estimated Total Refund				<u>\$21,000.00</u>

C. Proposed Surcharge Adjustment

As shown in the following table, CWS indicates that it only collects approximately \$24,646 (\$2,053.85 x 12 months) per year and needs to make loan payments of \$27,528, leaving an annual shortfall of approximately \$2,882.

Table 4
Surcharge Shortfall

Current Annual Revenue Requirement	\$27,528.32
Estimated Current Surcharge Collection	<u>24,646.20</u>
Requested Change in Annual Surcharge	<u>\$ 2,882.12</u>

³ CWS will prorate the total refund per address among the customers at each address by the number of months each customer paid the surcharge.

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In order to eliminate the \$2,882.12 shortfall and provide sufficient funds to make the loan payments, CWS requests authority to increase its surcharge rates by approximately 11.7%, as shown in the following table.

Table 5
Proposed Surcharge Rates

Metered Service Size of Service or Meter	Present Monthly Surcharge	Proposed Monthly Surcharge	Monthly Increase	Percent Increase
5/8 x 3/4-inch	\$ 9.85	\$ 11.00	\$ 1.15	11.7%
3/4-inch	\$ 14.75	\$ 16.50	\$ 1.75	11.9%
1-inch	\$ 24.75	\$ 27.51	\$ 2.76	11.2%
1-1/2-inch	\$ 49.25	\$ 55.01	\$ 5.76	11.7%
2-inch	\$ 79.00	\$ 88.02	\$ 9.02	11.4%
3-inch	\$148.00	\$165.04	\$17.04	11.5%
4-inch	\$246.00	\$275.06	\$29.06	11.8%

With the proposed surcharge increase, a 5/8 x 3/4-inch metered customer's monthly surcharge would increase from \$9.85 to \$11.00 or by 11.7%.

NOTICE AND PROTESTS

Pursuant to G.O. 96-B, Water Industry Rule 4.1, on October 22, 2014, CWS served its AL 2143 on its service list, which included among others, some customers in LD. Notice of AL No. 2143, AL No. 2143-A, and AL No. 2143-B were made by publication in the Commission's Daily Calendar of October 24, 2014, November 5, 2014, and November 19, 2014, respectively. No protests have been received.

On December 12, 2014, CWS notified its LD customers by mail of the refund and the proposed surcharge that is needed to have sufficient funds for future loan payments. In the Kern Valley Sun, CWS published a public notice on December 24, 2014, describing the refund and the proposed surcharge, with the estimated rate change expressed in both dollar and percentage terms. The Kern Valley Sun is a local newspaper circulated in Kern County, California. No protests have been received.

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DISCUSSION

Section 8.5 of the Water Industry Rules in GO 96-B provides that an overcollection shall be refunded as soon as possible by crediting the customer's service charge. An undercollection shall be recovered within one year by a surcharge on the service charge or commodity charge, as appropriate. The Commission has routinely authorized utilities to refund overcollections via surcredit or to collect undercollections via surcharge.

It has been the Commission's practice to require refunds of SDWBA surcharge overcollections through surcredit or by check. For example, in Res. W-4911, dated March 22, 2012, the Commission authorized Lake Alpine Water Company to refund overcollected funds in its trust account administered by a fiscal agent, as a surcredit over a 5-month period.

For administrative and handling efficiency, CWS proposes to do a one-time refund via surcredit or check. We have given consideration to CWS' alternative proposal to issue one-time checks to current and previous customers and determined that refunding via this method is reasonable, as long as CWS ensures that by doing so, customers receive what is due to them without being burdened with additional costs and it is the most cost effective method for the utility. If CWS is unable to negotiate favorable terms with a bank for issuing checks, CWS still has the option of doing a surcredit for current customers and issuing checks to former customers itself.

As set forth herein, we will authorize CWS to refund to its current and previous LD customers \$21,000 of excess funds in its WestAmerica Bank SDWBA trust account. The Fiscal Services Agreement specifies that no funds from CWS' trust account be released except for loan payments without the written consent of DWR. It is therefore necessary that DWR give its written permission to WestAmerica Bank to make effective CWS' request to refund \$21,000 of the excess funds in its trust account. This Resolution provides DWR and WestAmerica Bank the specifics of how the refund will be conducted.

We will request DWR to instruct WestAmerica Bank to release to CWS the amount of \$21,000. A copy of the instruction letter should be provided by DWR to DWA's UAFCB.

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To ensure proper treatment of the refund, the Commission will impose the following conditions on CWS:

- a) Open a separate bank account to deposit the excess funds received from the Fiscal Agent.
- b) Provide DWA's UAFCB a copy of the check received from the Fiscal Agent within ten (10) days of receipt.
- c) Prorate the refunds per current and previous customers by the number of months each customer paid the surcharge.
- d) Do the refund via surcredit or check to current and prior customers in accordance with the refund design.
- e) Record all refund transactions in a balancing account.
- f) Keep and maintain copies of documents related to the refunding.
- g) Notify DWA's UAFCB when the refund has been completed and provide a final accounting.
- h) Any returned checks should be sent to the State of California's Unclaimed Property, and processed according to the State's Guidelines available at <http://www.sco.ca.gov/upd.html>.
- i) Any prorated amount due a former customer that CWS does not have an address for should be sent to the State of California's Unclaimed Property, and processed according to the State's Guidelines.
- j) Any other undisbursed amount should be returned to the Trust Account.
- k) The refunding will be subject to audit if ordered by the Commission.
- l) On or before January 31, 2016 and annually thereafter, send a report to DWA's UAFCB stating the changes in the number of connections by type of customer and by size of connection, the amount of surcharge collected, the amount of repayment made, the outstanding balance of the loan, and the overages and shortages in the balancing account. Indicate in the report if an advice letter will be forthcoming to reflect any changes in the surcharge.
- m) Changes in surcharge rates should be accomplished by normal advice letter procedures.
- n) Be responsible for refunding or applying on behalf of its customers any surplus accrued in the balancing account when ordered by the Commission.

When CWS implemented the surcharge rates in October 2001, it appears that it intended to fund the semi-annual undercollection with the excess amount in the trust account. As mentioned earlier, when CWS acquired LD, the trust account balance was \$70,718.92. In addition, when Kernville filed its petition to modify D.94-09-024, it stated in the petition that there would be no increase in surcharge because it had sufficient

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funds in the trust account. However, in compliance with the requirements prescribed by Section 8.5 of the Water Industry Rules in GO 96-B on overcollection, CWS needs to refund the excess funds in the trust account.

Pursuant to DWR's Rates and Charges in its Loan Contract for a Construction Loan under the SDWBA, the supplier or borrower should meet the payments of the loan when due or raise sufficient funds through increased charges to meet the loan payments. It is therefore necessary that CWS adjust the surcharge rates to provide adequate collection for future loan payments. According to CWS's calculation, a \$2,882.12 or 11.7% increase in surcharge rates is needed in order to provide for the annual payments of \$27,528.32.

The requested increase in surcharge rates is reasonable and will provide CWS sufficient surcharge revenue to continue paying the LD SDWBA loan. As set forth herein, we will authorize CWS to increase the surcharge rates. It has been the Commission's practice to require that changes in future surcharge rates be accomplished by normal advice letter procedures.

On or before February 28, 2015, CWS shall file a Tier 2 advice letter to request implementation of the proposed surcharge rates in order to collect enough revenue for future loan payments.

COMMENTS

This is an uncontested matter that pertains solely to a water corporation. CWS has informed DWA's UAFCB that in connection with the refunding, it has no objection to the conditions being imposed and that it would comply with such refunding requirements.

Accordingly, pursuant to § 311(g) (3), the otherwise applicable 30-day period for public review and comment is not required.

FINDINGS

1. CWS, a California corporation, is a Class A water utility subject to the jurisdiction of this Commission.
2. In D.69516, the Commission authorized Dominguez to acquire all of the outstanding capital stock of Antelope and North Edwards.

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3. In D.71954, the Commission authorized Antelope to acquire all of the outstanding capital stock of Kernville Domestic.
4. In D.94-09-024, the Commission authorized Lakeland to borrow \$453,440 under the SDWBA program to be paid through surcharge rates to fund capital improvements in the Lake Isabella area.
5. In D.94-12-039, the Commission authorized the sale and transfer of Lakeland's common stock outstanding to Kernville Domestic.
5. In D.96-12-038, the Commission modified D.94-09-024 and authorized Kernville Domestic to borrow an additional \$78,000 from DWR bringing the total loan authorization to \$531,440.
6. According to CWS, the amended SDWBA loan contract dated January 27, 1999, was for a principal amount of \$506,869.45, with a term of 29 years.
7. Kernville Domestic did business under Kern River Valley Water, which became a second-tier subsidiary of Dominguez.
8. The water system operated by Kernville Domestic was acquired by CWS in the year 2000, as part of its merger with Dominguez, as authorized in D.00-05-047.
9. The Lakeland water system became a district of CWS, the Kern River Valley District (LD).
10. When CWS acquired LD in the year 2000, the SDWBA trust account balance was \$70,718.92.
11. By AL No. 1494, that became effective October 30, 2001, CWS implemented the surcharge rates shown on page 3 of this Resolution.
12. When CWS implemented the LD surcharge rates, it appears that it expected to fund future loan payments through the excess balance in the trust account.
13. As of August 31, 2014, the 10% reserve requirement of \$27,532 is held in the trust account.

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14. LD's trust account balance, net of the 10% reserve as of August 31, 2014 was estimated at \$28,670.49.

15. AL No. 2143-A adds the option to refund the excess funds to current customers by check.

16. AL No. 2143-B proposes to refund an estimated \$21,000 instead of \$28,000 in the original filing, keeping in the trust account the reserve requirement and a provision for the January 2015 loan payment.

17. The refund per customer address will be based on the billing record from 2002 until July 31, 2014. Previous and current customers will get a refund based on the number of months they paid the surcharge.

18. DWR is the sole agency that can instruct WestAmerica Bank to release funds to CWS to be refunded to customers.

19. Notice of AL No. 2143 appeared on the Commission's Daily Calendar on October 24, 2014. No protests have been received.

20. Notice of AL No. 2143-A appeared on the Commission's Daily Calendar on November 5, 2014. No protests have been received.

21. Notice of AL No. 2143-B appeared on the Commission's Daily Calendar of November 19, 2014. No protests have been received.

22. On December 12, 2014, CWS notified its KD customers by mail of the proposed refund and an increase in surcharge rates.

23. On December 24, 2014, CWS published a public notice containing the proposed refund and the proposed surcharge increase in the Kern Valley Sun, a local newspaper circulated in Kern County.

24. The Commission has routinely authorized utilities to refund overcollections, overearnings or make other regulatory adjustments via surcredit or surcharge.

25. According to Section 8.5 of the Water Industry Rules in GO 96-B, overcollections shall be refunded as soon as possible.

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26. CWS requests that it have the option to provide a one-time refund to current and prior customers for expediency and fast completion.

27. CWS will provide a refund to current and previous owners based on the prorated time each customer paid the surcharge. Current customers will be credited via surcredit or by check and previous customers by check.

28. CWS is negotiating with a bank to undertake the refunding and to issue the checks to current and previous customers.

29. Adding conditions to the Commission's authorization will help protect ratepayers and ensure proper treatment of the refund.

30. It has been the Commission's practice to require that a periodic report with the changes in the number of connections by type of customer and by size of connection, the amount of service fee collected, the outstanding balance of the loan, and the overages and shortages in the utility's balancing account be accomplished by the utility.

31. The Commission specifies that changes in surcharge collection rates should be accomplished by normal advice letter procedures.

32. In its Loan Contract for a Construction Loan under the SDWBA, DWR requires that the borrower should meet the payments of the loan when due or to raise sufficient funds through increased charges to meet the loan payments.

33. CWS needs to increase the LD surcharge rates in order to provide the utility adequate collection for loan payments of \$27,528.32 annually.

CONCLUSIONS OF LAW

1. Section 8.5 of the Water Industry Rules in GO 96-B requires that an overcollection be refunded as soon as possible by crediting the customer's service charge.

2. It has been the Commission's policy to require its regulated utilities to refund overcollections, overearnings or other regulatory adjustments.

3. It is in the public interest that CWS refund \$21,000 of excess funds in its trust account.

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4. CWS should be authorized to refund excess funds in its trust account.
5. The Commission has no objection if CWS determines that it is efficacious to send the refund to current and previous customers by check.
6. It is reasonable to require certain conditions for the refund and reporting requirements as set forth in this Resolution.
7. DWR should instruct WestAmerica Bank in writing to release to CWS the excess funds discussed in this Resolution.
8. It is reasonable to adjust the current surcharge rates to provide adequate collection for CWS' future semiannual payments to DWR.
9. CWS should file a Tier 2 advice letter on or before February 28, 2015, to request authority to implement the surcharge rates authorized in this Resolution.

THEREFORE, IT IS ORDERED THAT:

1. California Water Service Company shall refund \$21,000 of excess funds deposited in its trust account administered by its fiscal agent, WestAmerica Bank, prorated amongst current and prior Lakeland District customers by the number of months each paid the surcharge.
2. Within 15 days from the effective date of this Resolution, the Department of Water Resources shall provide WestAmerica Bank its written instruction and permission to release \$21,000 to California Water Service Company to be refunded to its current and previous Lakeland District customers via surcredit or check.
3. The Department of Water Resources shall provide California Water Service Company and the Division of Water and Audit's Utility Audit, Finance and Compliance Branch a copy of its written permission and instruction to WestAmerica Bank within 5 days of execution.
4. California Water Service Company shall notify the Department of Water Resources and the Division of Water and Audit's Utility Audit, Finance and Compliance Branch when the refund check is received from WestAmerica Bank.

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5. Upon receipt of the refund check from WestAmerica Bank, California Water Service Company shall do the refund to current and previous customers, pursuant to the refund design discussed in this Resolution.
6. California Water Service Company may do the refunding to customers by surcredit or check.
7. California Water Service Company is required to observe the conditions specified on page 9 of this Resolution.
8. On or before February 28, 2015, California Water Service Company shall file a Tier 2 advice letter to request implementation of the surcharge rates authorized in this Resolution. The filing shall include the cover sheet, table of contents and the tariff sheet indicating the adjusted surcharge rates.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on January 29, 2015; the following Commissioners voting favorably thereon:

TIMOTHY J. SULLIVAN
Executive Director